

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Billie G. Kelehear, Sr.,

Plaintiff,

v.

Michael J. Astrue,
Commissioner of Social Security
Administration,

Defendant.

C/A No.: 3:06-2811-CMC-JRM

ORDER

Plaintiff filed a complaint seeking judicial review of the final decision of the Commissioner denying his claim for disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. §§ 410-33 (2000). The matter is currently before the court for review of the Report and Recommendation of United States Magistrate Judge Joseph R. McCrorey made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 83.VII.02, *et seq.*, D.S.C.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

The United States Magistrate Judge has filed his Report and Recommendation, in which he recommends that the Commissioner's decision be reversed pursuant to sentence four of 42 U.S.C. § 405(g), and the case be remanded to the Commissioner for further administrative action as set out in the Report and Recommendation. The Magistrate Judge further recommends that Plaintiff's motion to remand for new evidence pursuant to sentence six of 42 U.S.C. § 405(g) be denied. In a response filed January 29, 2008, the Commissioner states that "the Defendant will not file objections to Magistrate Judge McCrorey's Report."

After reviewing the record, the applicable law, the briefs of counsel and the findings and recommendations of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

Therefore, it is hereby **ORDERED** that the Commissioner's decision is *reversed* pursuant to sentence four of 42 U.S.C. §§ 405(g), and the case is *remanded* to the Commissioner for further proceedings as set forth in the Report and Recommendation; and it is

FURTHER ORDERED that Plaintiff's motion to remand for new evidence pursuant to sentence six of 42 U.S.C. § 405(g) is **DENIED**.

IT IS SO ORDERED.

Columbia, South Carolina
January 31, 2008

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

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